IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 13586 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SULEMAN HUSENBHAI ISHA (GHANCHI)

Versus

GUJARAT STATE ROAD TRANSPORT CORPORATION

Appearance:

1. Special Civil Application No. 13586 of 2003

MR YV VAGHELA for Petitioner No. 1

MR ASHISH M DAGLI for Respondent No. 1

NOTICE SERVED BY DS for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE A.R.DAVE

Date of decision: 16/10/2003

ORAL JUDGEMENT

Rule. Service of rule is waived by learned

advocate Shri Dagli for the respondents.

2. The case of the petitioner is that he is a hawker selling sugarcane juice at Surendranagar Bus Stand. It has been submitted by the petitioner that the respondent authorities have framed a new policy, whereby two persons from one family are not given licence. In other words, licence can be given only to one person in a family.

3. It is the case of the petitioner that the present petitioner is having a licence to sell sugarcane juice at Surendranagar Bus Stand whereas his brother is having a hawker's licence to sell the same at Gondal Bus Stand. It has been submitted by the petitioner that the petitioner's licence has not been renewed because the licence of the petitioner's brother as a hawker has already been renewed.

4. It has been submitted by learned advocate Shri Champaneri appearing for the petitioner that as on today no person has been given licence to sell sugarcane juice as a hawker at Surendranagar Bus Stand. It has been submitted by him that till another person is given licence, the petitioenr may be permitted to continue to do his business as a hawker at Surendranagar Bus Stand.

5. On the other hand, learned advocate Shri Dagli appearing for the respondents has submitted that in view of new policy framed by the respondents, it may not be possible to renew the licence of the petitioner as the petitioner's brother has been given a hawker's licence to sell sugarcane juice at Gondal Bus Stand.

6. It has been however very fairly conceded by learned advocate Shri Dagli that till today no person has been given licence to sell sugarcane juice as a hawker at Surendranagar bus stand. It has been submitted by him that in view of new policy somebody else will be given the licence and not the petitioner.

7. I have heard the learned advocates and have also perused the conditions of licence, whereby the petitioner cannot be given licence as a hawker.

8. Looking to the facts of the case and more particularly when no other person has been given licence to do business as a hawker for selling sugarcane juice at Surendranagar Bus Stand, by way of interim arrangement the petitioner can be continued to do his business as a hawker till another person is given licence to sell sugarcane juice at Surendranagar bus stand.

9. The petitioner has given an undertaking to this court that the moment another person is given licence to sell sugarcane juice at Surendranagar bus stand as a hawker, the petitioner shall discontinue his business as a hawker without raising any objection. The said undertaking has been taken on record. A copy of the undertaking has also been given to learned advocate Shri Dagli representing the respondent authorities.

10. It is clarified that the petitioner shall pay licence fees with effect from the date on which he is permitted to do the said business and the permission will automatically come to an end the day on which another person is given licence as per new policy and in accordance with law. The petitioner shall also pay necessary charges as per the new policy.

11. In view of the above order, the petition stands disposed of as allowed. Rule is made absolute to the above extent with no order as to costs. D.S. permitted.

(A.R. Dave, J.)

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